

that could not be reached because of insufficient funds, will be returned to the applicant with the reason they were not selected.

(f) *Actions by State Director.* (1) If the applicant is an organization adopting without change the "Articles and By-laws" prescribed by State supplements, the preapplication need not be submitted to OGC.

(2) In all other cases involving loans or grants to organizations, the docket, with any questions or comments of the State Director, will be submitted to OGC for a preliminary opinion as to whether the applicant and the proposed loan meet or can meet the requirements of State law and this subpart.

(3) An original and one copy of the appropriate environmental review document required by subpart G of part 1940 of this chapter must be completed prior to submitting the docket to the National Office for review.

(4) In cases not receiving a National Office review, the following statement is to be added to the Form AD-622: "You are advised against taking any actions or incurring any obligations which would either limit the range of alternatives to be considered, or which would have an adverse effect on the environment. Satisfactory completion of the environmental review process in accordance with subpart G of part 1940 of this chapter must occur prior to loan approval. The issuance of this review action does not constitute site approval."

(5) *Determining amount of grant.* (i) *General.* The State Director will determine the amount the applicant can obtain from other sources, including an LH loan, and the amount of the grant to be made, within the limits set forth in § 1944.164(b). The State Director will make this determination after thoroughly analyzing the information in the docket and receiving authorization from the National Office.

(ii) *Method of determining amount of grant.* (A) The State Director will examine the income of the project based on the estimated rental charges and operating costs of the housing when in full operation to determine the soundness of the operations. When there is any doubt as to the probable soundness due to unrealistic planning of income

or operating expenses, or for other reasons, the housing project and its operation will be discussed with the applicant to determine changes which can be made to correct the deficiencies.

(B) When a sound plan of operation has been agreed upon, the State Director will determine the amount of funds that can be expected to be available from other sources, including a LH loan. The State Director will also determine the amount of income available for loan repayments after allowing for reasonable and necessary maintenance costs, payments on debts of the applicant, and the orderly accumulation of an adequate reserve.

(C) The amount of the grants will be the difference between the amount of funds to be provided in accordance with paragraph (f)(5)(ii)(A) of this section, plus any funds available from the applicant's own resources and the total development cost of the project. In no case, however, may the amount of the grant exceed 90 percent of the total development cost.

(6) When the State Director considers it necessary, any preapplication may be sent to the National Office for evaluation and instructions.

[48 FR 200, Jan. 4, 1983, as amended at 53 FR 36267, Sept. 19, 1988; 55 FR 13503, Apr. 11, 1990; 55 FR 25077, June 20, 1990; 58 FR 40951, July 30, 1993; 61 FR 39851, July 31, 1996; 64 FR 24480, May 6, 1999]

§ 1944.171 Preparation of completed loan and/or grant docket.

(a) *Information needed.* If the applicant has been requested to file an application, SF 424.2 (for application submission), and the additional information as outlined in exhibit A-1 or A-2, as applicable, will be submitted to the District Director.

(b) *District Director's responsibility.* As the information for the loan docket is being developed, the District Director will work closely with the applicant. The District Director will review and verify the information furnished for correctness, adequacy, and completeness. The District Director will determine that the market survey is adequate and that the market survey report is accurate. The District Director will evaluate the manner in which the applicant plans to conduct its business

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and financial affairs and comment on the adequacy of the management.

(c) *County Committee certification.* County Committees will not be used to review LH loan and/or grant applications.

(d) *Assembly, review, and distribution of complete loan and/or grant docket items.* When all items required for the complete loan and/or grant docket have been furnished, they will be examined

thoroughly by the FmHA or its successor agency under Public Law 103–354 official who will approve the loan and/or grant to make sure they are properly and accurately prepared and are complete in all aspects, including dates and signatures. The loan and/or grant docket items will be assembled in the following order for distribution after approval:

Form No.	Name of form or document	Total No. of copies	Signed by borrower	Number for docket	Copy for borrower
Exhibit A–1 (or exhibit A–2) ² .	Information to be Submitted for Labor Housing (LH) Loan or Grant.	2	0	1–O	1–C
	Memorandum from the National Office authorizing development of loan docket and loan or grant approval if required by § 1944.170(c). ²	1		1–O	
AD–622	Notice or Preapplication Review Action.	3		2–C	1–O
SF 424.2	Application for Federal Assistance ((For Construction) (for application submission).	3	1	2–O and 1C	1–C
1910–11	Applicant Certification, Federal Collection Policies for Consumer or Commercial Debts.	2	1	1–O	1–C
Exhibit A–1 (or exhibit A–2) ² .	Information to be Submitted for an LH Loan or Grant.	2	0	1–O	1–C
FmHA 1944–50 ..	Multiple Family Housing Borrower/Project Characteristics.	1		1–O	
FmHA 1944–51 ..	Multiple Family Housing obligation—Fund Analysis.	3	3–O & 2C	1–O	1
FmHA 400–1	Equal Opportunity Agreement	2		1–O	1–C
FmHA 400–3 ²	Notice to Contractors and Applicants	3		2–O and 1C	1–C
FmHA 400–4	Assurance Agreement	2	1	1	1
FmHA 400–6 ²	Compliance Statement	3		2–O and 1C	1–C
HUD 935.2	Affirmative Fair Housing Marketing Plan.	2		2–O and 1C	
	Evidence of Legal Authority (copies or citation of specific provisions of State constitution and statutory authority). ²	2	1	1–O	1–C
	Appraisal report with attachments	1		1–O	
FmHA 1940–20 ²	Request for Environmental Information.	1	1	1–O	
FmHA 1940–21 ..	Environmental Assessment For Class I Actions.	1		1–O	
FmHA 1940–22 ²	Environmental Checklist For Categorical Exclusions.	1		1–O	1
Exhibit H Subpart G of Part 1940 ² .	Class II Environmental Assessment ...	1		1–O	1
FmHA 426–1	Valuation of Buildings	1		1–O	
FmHA 440–9 ²	Supplementary Payment Agreement ..	2	1	1–O	1–C

Other Loan Docket Items. Preliminary Title Opinion or a title insurance binder, and a copy of deed, purchase contract, or other instrument of ownership, or an option.

Proof of Organization (certified copy of charter or articles of incorporation) ¹ .	2	1	1–O	1–C
Certified copies of bylaws or regulations ¹ .	2	1	1–O	1–C
List of names and addresses of officers, directors, and members and membership interest held by each. ¹	2	1	1–O	1–C
Certified copy of Loan Resolution ¹	1	1	1–O	1–C
Loan Agreement ²	2	1	1–O	1–C

Form No.	Name of form or document	Total No. of copies	Signed by borrower	Number for docket	Copy for borrower
	Survey of land given as security, plans, specifications, cost estimates, and proposed manner of construction. ²	2	1	1-O	1-C
Exhibit A-5 ²	Statement of Budget and cash flow	2	1	1-O	1-C
FmHA 431-2 ²	Farm and Home Plan	2	1	1-O	1-C

When applicable, include copy of lease or occupancy agreement to be used, report of lien search, option or foreclosure notice agreement, and items of information concerning prior mortgage(s). For subsequent loans made in conjunction with transfers to nonprofit corporations or public agencies to avert prepayment, follow the additional directions in § 1965.65(f) of subpart B of part 1965 of this chapter. For advances made to nonprofit corporations or public agencies to avert prepayment, follow the directions in § 1965.217 of subpart E of part 1965 of this chapter.

¹ When applicant is an organization.

² When applicable.

(e) *Submission of docket to State Office.*

(1) The loan and/or grant docket needing State Office approval, including comments and recommendations by the District Director, will be submitted to the State Office. The State Director will prepare and include in the docket a memorandum to the District Director which will either require additional information if the material submitted is inadequate or will set forth the conditions of loan approval. The proposed conditions of loan approval must indicate if construction will be financed by multiple advances or interim financing if the loan will be closed on DIAS or PASS, and when the payment will be made, if an annual payment is indicated due to seasonal income.

(i) Loans for multiple advance construction on PASS or DIAS monthly installments will include the cost of construction *less* the cost of interest during construction. To determine the recommended loan amount the District Director should determine the authorized loan amount including construction interest, then subtract the estimated construction interest from the loan amount. Interest during construction will be capitalized as authorized in § 1944.158 (j) of this subpart.

(ii) Loans for interim financed construction may include the cost of interest during construction as authorized in § 1944.158 (j) of this subpart.

(iii) Loans for multiple advance construction on DIAS, with annual installment and deferred principal payments, may include the cost of interest during construction as authorized in § 1944.158 (j).

(2) The advice of the Office of the General Counsel (OGC) should be obtained for all loans and/or grants to organizations and associations of farmers and their comments included in the memorandum to the State Director. If the State Director determines that the loan and/or grant should be approved, the State Director will approve the loan and/or grant and sign the memorandum to the District Director as required by paragraph (e)(1) of this section.

(f) *Submission of docket to National Office.* The final loan and/or grant docket need not be submitted to the National Office unless required by an authorizing memorandum resulting from compliance with § 1944.170.

(g) *Announcement.* When it is determined that a loan and/or grant can be approved, project information will be prepared in accordance with FmHA Instruction 2015-C which is available in the FmHA or its successor agency under Public Law 103-354 State and National Offices.

(h) *Establishing borrower/project data.* Prior to loan approval, the State Director, District Director or a designee will input into the accounting system through field office terminals, the information contained in Form FmHA or its successor agency under Public Law 103-354 1944-50.

[45 FR 47655, July 16, 1980, as amended at 47 FR 36414, Aug. 20, 1982; 49 FR 3762, Jan. 30, 1984; 50 FR 8591, Mar. 4, 1985; 54 FR 29332, July 12, 1989; 55 FR 13503, Apr. 11, 1990; 58 FR 38923, July 21, 1993]